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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/743,483	01/10/2001	Yoshiyuki Matsumoto	Q62437	2611

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Sughrue Mion Zinn Macpeak & Scas  
2100 Pennsylvania Avenue NW Suite 800  
Washington, DC 20037-3213

EXAMINER

HUANG, EVELYN MEI

ART UNIT PAPER NUMBER

1625

DATE MAILED: 11/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b>	<b>Application No.</b> 09/743,483	<b>Applicant(s)</b> MATSUMOTO ET AL.	
	<b>Examiner</b> Evelyn Huang	<b>Art Unit</b> 1625	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☒ Applicant's reply has overcome the following rejection(s): see attachment.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

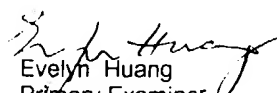
Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 18-30 and 35-38.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

  
 Evelyn Huang  
 Primary Examiner  
 Art Unit: 1625

***Attachment to Advisory Action***

1. The supplemental amendment filed on 7-3-2003 has been entered and considered.
2. The 35 U.S.C. 112, first paragraph rejection would be withdrawn in view of the amendment limiting the claims to treatment of diseases as recited in claims 37, 38. The claims as amended would be commensurate in scope with the objective enablement.

It is recommended that for claims 37, 38, 'in need thereof' be inserted after 'human subject' to better define the claims.
3. The rejection for Claims 23, 29 under 35 U.S.C. 112, second paragraph, would be withdrawn because the amendment would have obviated the rejection.
4. The cancellation of claim 31 would rendered moot the objection to its being a substantial duplicate of claim 30.
5. The rejection for Claims 18-22, 26-29 under 35 U.S.C. 103(a) as being unpatentable over Shimamura (JP 05112559) would be withdrawn in view of the amendment limiting J to the recited ring moieties when  $m=0$  and A is a ring system, thereby setting a demarcation from Shimamura's compound which has an alkyl group. Motivation to modify Shimamura's compound to arrive at the instant invention is lacking.
6. The provisional obviousness-type double patenting over corresponding claims of copending Application No. 09/936566 is maintained for reasons of record. Applicant has requested the examiner to hold this rejection in abeyance until allowable subject matter is indicated in this application or in the co-pending application. A timely filed terminal disclaimer would obviate the rejection.

7. The provisional obviousness-type double patenting as being unpatentable over corresponding claims of copending Application No. 10/169866 is maintained for reasons of record. Applicant has requested the examiner to hold this rejection in abeyance until allowable subject matter is indicated in this application or in the co-pending application. A timely filed terminal disclaimer would obviate the rejection.

8. Claims 18-30, 35-38 would be allowed if the provisional obviousness-type double patenting issues were resolved.